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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

United States of America,  
Plaintiff  
v.  
Phillip Smith,  
Defendant

Case No.: 2:11-cr-00058-JAD-CWH  
**Order Granting in Part Motion for Return  
of Property**  
[ECF No. 265]

Defendant Phillip Smith was an aspiring music artist whose endeavors were interrupted when he pled guilty to one count of conspiracy to commit armed robbery and seven counts of robbery in connection with many robberies, including several at video-game retailer GameStop.<sup>1</sup> He was sentenced to serve 221 months in prison with 3 years of supervised release to follow, and he was ordered to pay \$48,018.12 in restitution to his victims.<sup>2</sup>

Eight months after judgment was entered against him, Smith wanted to have the property that was seized by law enforcement during their investigation returned to him. But he wasn't sure what exactly had been collected as evidence, so he moved for the production of an item manifest.<sup>3</sup> The United States did not oppose the request—although it pointed out Smith had abandoned his right to the seized property in the plea agreement—and provided two overlapping lists of items that had been seized during the investigation.<sup>4</sup>

Smith now moves for the return of specific items on those lists. One group of requested items, which Smith characterizes as the “intellectual property” group contains: (1) a Panasonic Luminex digital camera; (2) a Sprint Touch Phone; (3) three iPods; (4) a 2 gigabyte thumb drive; (5) some CD-ROMs; (6) a Toshiba laptop computer; (7) some notebooks; and (8) “misc.

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<sup>1</sup> ECF Nos. 53 (superseding indictment); 252 (judgment).

<sup>2</sup> ECF No. 257.

<sup>3</sup> ECF No. 258.

<sup>4</sup> ECF No. 261 and attached exhibits.

1 property.”<sup>5</sup> He claims that these items contain albums, lyrics, promotional pictures, music  
2 videos, and other media related to his musical endeavors and that they are priceless.

3 Another group characterized as “personal property” contains: (1) one envelope with \$113  
4 cash; (2) three keys on a key ring; (3) a Samsung charger; (4) an envelope with \$4.80 cash; (5)  
5 one Samsung-Sprint phone; (6) two “UMC bills”; (7) 13 videogames for the XBOX 360 or  
6 PlayStation 2 gaming consoles; (8) two unspecified “games”; (9) “misc. papers”; (10) “misc.  
7 bus. cards”; (11) two PlayStation 2 gaming controllers; and (12) two PlayStation 2 gaming  
8 consoles.

9 The United States responds that it “does not have possession of each and every item  
10 included in Defendant’s motion.”<sup>6</sup> But it addresses a myriad of items that it does have. The  
11 government has no objection to returning the keys on the key ring, Samsung charger, Samsung  
12 Sprint phone, CD-ROMs, Toshiba laptop computer, notebooks, and “misc. property.”<sup>7</sup> But it  
13 objects to the return “of any and all game consoles[,] game console controllers, games, and” cash  
14 because they are all likely contraband stolen from the GameStop stores.<sup>8</sup> In reply, Smith  
15 abandons his desire for the government’s objected-to items, accepts the unobjected-to items, and  
16 renews his request for the intellectual-property items.<sup>9</sup>

17 Accordingly, good cause appearing IT IS HEREBY ORDERED that Smith’s motion for  
18 the return of his personal property [ECF No. 267] is **GRANTED in part and DENIED in part.**  
19 The government must mail the following items to Smith’s mother, Mrs. Cremelia Scott, at 4121  
20 Karma Drive, N. Las Vegas, NV 89032:

- 21 • 3 keys on a key ring;
- 22 • Samsung charger;

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24 <sup>5</sup> ECF No. 265 at 6.

25 <sup>6</sup> ECF No. 266 at 3.

26 <sup>7</sup> *Id.* at 3–4.

27 <sup>8</sup> *Id.* at 4.


28 <sup>9</sup> *Id.*

- Samsung-Sprint phone;
- CD-ROMs;
- Toshiba laptop computer;
- Notebooks;
- “Misc. property” as identified in the item manifests in ECF No. 261; and
- Any intellectual property that it still has in its possession and that does not qualify as contraband.

The government does not have to mail the gaming consoles, gaming controllers, videogames, and cash.

IT IS FURTHER ORDERED that the government has **until May 7, 2018, to FILE a notice that itemizes all items mailed to Mrs. Scott as well as proof of mailing.**

Dated: April 6, 2018

  
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U.S. District Judge Jennifer A. Dorsey